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Senator, District 22

THE MAINE SENATE
132nd Legislature

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Augusta, Maine 04333

**Testimony of Senator James D. Libby
Sponsor of L.D. 199, "An Act to Change the Limits on Candidates' Communication at the Polls"**

Public Hearing: Monday, February 3, 2025

Senator Hickman, Representative Supica, and esteemed members of the Joint Standing Committee on Veterans and Legal Affairs,

My name is Jim Libby, and I am a State Senator representing Senate District # 22, comprised of the towns of Naples, Sebago, Baldwin, and Standish in Cumberland County; Hiram and Porter in Oxford County; and, Limington, Limerick, Cornish, Parsonsfield, Newfield, Acton, and Shapleigh, in the County of York.

It is my honor to bring to your attention the contents of L.D. 199, "An Act to Change the Limits on Candidates' Communication at the Polls."

Committee members, the genesis of this bill was something that many, if not most of you have experienced. According to Maine law, "Candidates may not state the name of the office sought or request a person's vote."

This law amounts to a gag-order and is, in my estimation, a violation of a candidate's constitutional right to free speech. In addition, specifically as it relates to the "office sought" provision, there are many voters who ask for information on the way into a polling place. Not providing information violates the expectations of candidates and office holders to provide important information in a timely fashion to the voting public when requested.

The National Conference of State Legislatures (NCSL) provides an important breakdown of what other states are doing in the area restricting political activities "in polling places where voting takes place." The NCSL website explains that most states "usually include limiting the display of signs, handing out campaign literature or soliciting votes within a pre-determined distance (typically 50 to 200 feet) of a polling place."

Here is the summary of the information provided by the NCSL:

- 16 states prohibit campaign apparel/buttons/stickers/placards
- 37 states and D.C. prohibit campaign materials/signs/banners/literature
- 28 States prohibit influencing voters/soliciting votes/political persuasion
- 17 states and D.C. prohibit circulating petitions/soliciting signatures
- 10 states prohibit projecting sounds referring to candidates/issues
- 6 states prohibit polls/exit polls

- 9 states prohibit loitering
- 3 states prohibit peddling/advertising
- 10 states prohibit voter intimidation/interfering with voter
- 10 states prohibit obstructing entrance/hindering voter

From this data, we notice that slightly over half of states have at least one provision regarding soliciting votes/political persuasion, and so forth. It is particularly interesting that there is no mention anywhere about answering voters' questions. Specifically, in the case of soliciting votes, it is not a violation of solicitation to simply respond to a question. Solicitation, according to Webster's dictionary, includes, "the act of asking for or trying to obtain something from someone." *In no way is the response of a candidate to a question asked by a voter on their way into the polling place a violation of this societal norm.* This is not solicitation.

In fact, I find it telling that nowhere in the NCSL data is the response to questions prohibition even mentioned (the part of Maine law in subsection 2).

Here are the prohibitions listed for Maine by the NCSL, which align with 21-A M.R.S. § 682

- Campaign Apparel/Buttons/Stickers/Placards
- Campaign Materials/Signs/Banners/Literature
- Influencing Voters/Soliciting Votes/Political Persuasion
- Projecting Sounds Referring to Candidates/Issues – Note: buttons of 3" or less are allowed

It is subsection 2 that is the most objectionable. Maine law regarding this section is available to you in my bill, LD 199. Again, specifically in subsection 2: "Candidates may not state the name of the office sought or request a person's vote."

Members of the Committee, "request a person's vote is solicitation." I think that is fine to do, you may not. However, with respect to "Candidates may not state the name of the office sought" in a response to a question – this is not a solicitation under any American definition of the English language. It is critical that members of the Joint Standing Committee on Veterans and Legal Affairs act today to correct this appalling error made by a previous legislature. The right to gag a *response* to a question cannot be tolerated in a free society. I believe that you should pass my bill as-is. But if you cannot do this in your own conceptualization of what should and shouldn't occur at a polling place, I feel at the very least that we all must agree that prohibiting "responses" to voter's questions should not be tolerated, and that this part of subsection 2 must be struck from the law. The State of Maine has a responsibility not to bend language so as to codify in law inappropriate behaviors by candidates. It is a black eye to our state and an awkward embarrassment at the polls that each of us are asked to endure.

Thank you for your time, and I am available to the Committee for any questions that you might have.